

UNITED STATES DISRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MELINDA THEW COOPER, individually and as a  
shareholder of TACONIC 82, INC.,

Plaintiff,

**NOTICE OF MOTION**

**04 CIV. 8928-CM**

—against—

LARRY THEW; JOHN THEW; LARRY THEW, as  
executor of the Estate of Richard Thew; JOHN THEW,  
as executor of the Estate of Richard Thew; LARRY  
THEW, as successor co-trustee of the Gerald Thew Family  
Trust; JOHN THEW, as successor co-trustee of the Gerald  
Thew Family Trust; LARRY THEW, as co-trustee of the  
R.W. Thew Trust a/k/a the R.W. Thew Irrevocable Living  
Trust; JOHN THEW, as co-trustee of the R.W. Thew Trust  
a/k/a the R.W. Thew Irrevocable Living Trust; THE CURRY  
FAMILY PARTNERSHIP; TACONIC 82, INC.; LARRY  
THEW, as an officer and/or director of TACONIC 82, INC.;  
JOHN THEW, as an officer and/or director of TACONIC  
82, INC.; REED SMITH, LLP; STEPHEN P. O'HARE,  
Esq.; WILLIAM J. O'HARE, Esq.; O'HARE & O'HARE,  
P.C.; MICHELE THEW; and PATRICIA CARSON,

Defendants.

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PLEASE TAKE NOTICE, that upon the annexed affidavit of Kathryn B. Beller, Esq., the  
exhibits thereto, and the accompanying Memorandum of Law, the undersigned will move this  
Court as soon as counsel can be heard, for an order (a) dismissing this action in its entirety (i)  
pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure for lack of subject matter  
jurisdiction and (ii) pursuant to the doctrine of abstention and (b) dismissing certain counts  
alleged in the Complaint (i) because Plaintiff lacks standing, (ii) pursuant to rule 12(b)(6) of the  
Federal Rules of Civil Procedure for failure to state claims upon which relief can be granted, and

7. Annexed hereto as Exhibit "E" is a true and accurate copy of the case captioned *C.R.A. Realty Corp. v. Scor U.S. Corp.*, 2004 WL 309610 (S.D.N.Y.).

8. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: White Plains, New York  
January 18, 2005

/s/ Kathryn P. Beller

Kathryn P. Beller, Esq.